HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 9778 of 2000

Dated: 03-10-2007

Between:

K.Padmavathamma

..... PETIT

AND

The Revenue Divisional Officer,
Tirupathi,
Chittoor District.

.....RESPO

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 9778 of 2000

O R D E R:

This writ petition is filed for a writ of Mandamus to set aside the proceedings in R.O.C.No.E/50/97, dated 12-02-2000, whereby respondent cancelled the pattadar passbooks and title deeds issued in the name of the petitioner.

The petitioner claims to be in possession of an extent of Acs.3.68 cents in Sy.No.1507/1,4,5, and 7, 1506/11 and 17, 1425/10 and 1510/16 of Pitchanayudupalle Village, Chandragiri Mandal, Chittoor District. He further claims that the Mandal Revenue Officer, Chandragiri granted pattadar passbooks and title deeds in his favour in the year 1994 having recognised the fact that the land is a Government poramboke and the petitioner is a landless poor person. The respondent, vide his proceedings impugned in this writ petition, cancelled the said pattadar passbooks and title deeds. The main grievance of the petitioner as projected in the affidavit filed in support of the writ petition is that the respondent, before passing the impugned order, has not given him an opportunity to explain against the proposed action.

A counter affidavit has been filed by Sri D.Rama Rao, Revenue Divisional Officer, Tirupathi, Chittoor District in which it is mentioned that the lands in respect of which the petitioner was earlier granted pattadar passbooks and title deeds were assigned lands and pattas were granted to Scheduled Caste persons; that as the petitioner violated the provisions of Section 3 of Andhra Pradesh Assigned Land (Prohibition of Transfers) Act, 1977, the Mandal Revenue Officer concerned initiated proceedings and cancelled the pattas. As a consequential step, the respondent issued the impugned proceedings in exercise of his power under Section 5 (5) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 read with Rule 21 of the Rules made thereunder. It is stated that the petitioner obtained pattadar passbooks and title deeds contrary to the procedure and law. It is also stated that consequent on the cancellation of the pattadar passbooks and title deeds, some third parties were granted pattas and their names were mentioned in para 3 of the counter affidavit.

Heard Sri C.Ramachandra Raju, learned counsel for the petitioner and

the learned Assistant Government Pleader for Revenue (General).

Learned counsel for the petitioner submitted that the respondent, before cancelling the pattadar passbooks and title deeds, which were earlier issued in favour of the petitioner, failed to give an opportunity to the petitioner to explain against the proposed action. The learned Assistant Government Pleader did not dispute this contention.

A perusal of the impugned order does not show that before passing the said order, the respondent has given an action oriented notice, giving an opportunity to the petitioner to show cause as to why the pattadar passbooks and title deeds shall not be cancelled.

Though in the counter affidavit it is mentioned that the cancellation of pattadar passbooks and title deeds is in pursuance of an order of resumption of the lands passed by the Mandal Revenue Officer, there is no reference to such an order in the impugned order. Therefore, the contentions raised in the counter affidavit are not substantiated by any material produced by the respondent.

In the above circumstances, the order under challenge is set aside. However, liberty is given to the respondent to initiate proceedings in accordance with law after giving reasonable opportunity to the petitioner.

The writ petition is allowed to the extent indicated above. No costs.

C.V.NAGARJUNA REDDY,J

Date: 03-10-2007
KLP